

**CITY OF EL PASO, TEXAS**  
**AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** Financial Services  
**AGENDA DATE:** June 9, 2009  
**CONTACT PERSON/PHONE:** Liza Ramirez-Tobias, Capital Assets Manager, 915-541-4074  
**DISTRICT(S) AFFECTED:** #1, Representative Lilly

**SUBJECT:**

That the City Manager be authorized to sign a First Amendment to the Lease Agreement between the CITY OF EL PASO and FRANKLIN SELF STORAGE LIMITED LIABILITY COMPANY to cross a portion of an identified 60-foot easement leased to El Paso Natural Gas in Tract 1P1, H.G. Foster Survey No. 256, City of El Paso, El Paso County, Texas.

**BACKGROUND / DISCUSSION:**

On January 2, 2008, the El Paso City Council approved a lease permitting Franklin Self Storage Limited Liability Company to cross a portion of an identified 60-foot easement leased to El Paso Natural Gas in Tract 1P1, H.G. Foster Survey No. 256, City of El Paso, El Paso County, Texas with a 30-foot access road to access its abutting property within Tract 7D, H.G. Foster Survey No. 256, El Paso, El Paso County, Texas; for surface use only. Franklin Self Storage Limited Liability Company has requested an amendment to the 2008 Lease to allow for placement of conduits and pipes for underground utilities, which can only be brought in through the identified 60-foot easement and which will consist of conduits for electric, telephone and water service. The lessee has agreed to pay rent of \$100 per month, and will be subject to yearly inflation cost adjustments.

**PRIOR COUNCIL ACTION:**

Original lease agreement was approved by City Council on June 9, 2008

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

CARE Committee approval

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) \_\_\_\_\_ **FINANCE:** (if required) \_\_\_\_\_

**DEPARTMENT HEAD:** Carmen Arieta Candelaria  
(Example: if RCA is initiated by Purchasing, client department should sign also)  
*Information copy to appropriate Deputy City Manager*

**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

## RESOLUTION

**WHEREAS**, on January 2, 2008, the El Paso City Council approved a lease permitting Franklin Self Storage Limited Liability Company to cross a portion of an identified 60-foot easement leased to El Paso Natural Gas in Tract 1P1, H.G. Foster Survey No. 256, City of El Paso, El Paso County, Texas with a 30-foot access road to access its abutting property within Tract 7D, H.G. Foster Survey No.256, El Paso, El Paso County, Texas; and

**WHEREAS**, the Franklin Self Storage Limited Liability Company has requested an amendment to the 2008 Lease to allow for placement of conduits and pipes for underground utilities, which can only be brought in through the identified 60-foot easement and which will consist of conduits for electric, telephone and water service,

### **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the City Manager be authorized to sign a First Amendment to the Lease Agreement between the CITY OF EL PASO and FRANKLIN SELF STORAGE LIMITED LIABILITY COMPANY to cross a portion of an identified 60-foot easement leased to El Paso Natural Gas in Tract 1P1, H.G. Foster Survey No. 256, City of El Paso, El Paso County, Texas.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

THE CITY OF EL PASO

\_\_\_\_\_  
John F. Cook, Mayor

ATTEST:

\_\_\_\_\_  
Richarda D. Momsen, City Clerk

APPROVED AS TO FORM:



\_\_\_\_\_  
Theresa Cullen  
Deputy City Attorney

APPROVED AS TO CONTENT:



\_\_\_\_\_  
Liza Ramirez-Tobias  
Capital Assets Manager

THE STATE OF TEXAS §  
§  
COUNTY OF EL PASO §

FIRST AMENDMENT TO  
LEASE AGREEMENT

This First Amendment to the Lease Agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 2009, between the **CITY OF EL PASO**, a home rule municipal corporation (the "CITY"), and **FRANKLIN SELF STORAGE LIMITED LIABILITY COMPANY**, a Texas domestic limited liability company (the "LESSEE").

**WHEREAS**, in 1959, the City of El Paso leased an identified 60-foot tract to El Paso Natural Gas (EPNG) for its pipelines, and the lease has been amended and recorded in Volume, 01541, Page 00085; Volume 01572, Page 00235, and Volume 807, Page 1889, Real Property Records, El Paso, El Paso County, Texas; and

**WHEREAS**, the 1959 lease and amendments reserved the City's right to full use and enjoyment of the identified 60-foot wide tracts except for the rights granted to EPNG; and

**WHEREAS**, on January 2, 2008, the El Paso City Council approved the lease permitting Lessee to cross a portion of an identified 60-foot easement leased to El Paso Natural Gas in Tract 1P1, H.G. Foster Survey No. 256, City of El Paso, El Paso County, Texas with a 30-foot access road to access its abutting property within Tract 7D, H.G. Foster Survey No.256, El Paso, El Paso County, Texas, a copy of which is attached hereto as Exhibit "A" and made a part hereof for all purposes, and hereinafter referred to as the "Lease"; and

**WHEREAS**, the LESSEE has requested an amendment to the Lease to allow for placement of conduits and pipes for underground utilities, which can only be brought in through the identified 60-foot easement and which will consist of conduits for electric, telephone and water service; and

**WHEREAS**, EPNG has given its approval to the LESSEE'S proposed placement of the conduits and pipes for the identified utilities,

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth, and other good and valuable consideration, the parties hereto agree and covenant as follows:

1. That Paragraph 2.2, Rent, of the Lease shall be amended to read as follows:

2.2 Rent. The CITY and the LESSEE agree that the rental value for the Premises is ONE HUNDRED AND 00/100THS DOLLARS (\$100.00) per month (the Initial Base Rent") for the first year of the primary lease term of this Lease Agreement, as stated in Section 1.1 above. Beginning one year from the Commencement Date, the annual rental will be adjusted on each anniversary of the Commencement date (the "Adjustment Date") to reflect increases in the Consumer Price Index for "All Urban Consumers; U.S. City Average, All Items,"

issued by the Bureau of Labor Statistics of the United States Department of Labor.

- a. The adjustments in the Base Rent will be determined by multiplying the Base Rent specified in the Lease ("the Initial Base Rent") by a fraction, the numerator of which is the index number for the last month before the adjustment and the denominator of which is the index number for the first month of the first year of the Term. If the product is greater than the Initial Base Rent, the LESSEE will pay this greater amount as Base Rent until the next rental adjustment. Base Rent will never be less than the Initial Base Rent.
- b. The CITY will notify the LESSEE of each adjustment to Base Rent no later than sixty (60) days after the Adjustment Date.

2. That Paragraph 3.1, Use, of the Lease is hereby amended to read as follows:

- 3.1 Use. The LESSEE agrees that it has permission to use the surface of the Premises solely for access to its property that is located adjacent to the Premises. In addition, the LESSEE agrees that it has permission to install subsurface conduits to provide electric and telephone service and lines to provide domestic water, landscaping water, and water for fire hydrant service. The LESSEE agrees to abide by the terms and conditions of EPNG's March 1, 2007 consent, a copy of which is attached hereto as Exhibit "D" and EPNG's March 16, 2009 and June 2, 2009 consents, copies of which are attached hereto as Exhibit "A-I" and incorporated herein for all purposes. No additional use of the Premises shall be allowed or constructed on the Premises without EPNG's written consent being tendered to and approved by the CITY.

Should the LESSEE fail to use the Premises for the identified uses, the CITY may send notice of failure, by certified mail, return receipt requested, to the LESSEE at the following address: 299 Shadow Mountain Drive, Suite C, El Paso, Texas 79912, and the LESSEE shall have thirty (30) days from the date of notice to correct the default. If the default has not been corrected within the time specified, the LESSEE shall reassign the remaining term of the lease back to the CITY and abandon the Premises.

3. Except as herein revised, the terms and conditions of the January 2, 2008 Lease shall remain in full force and effect.

**Witness the following signatures:**

**CITY OF EL PASO**

---

Joyce A. Wilson  
City Manager

APPROVED AS TO FORM:

Theresa Cullen

Theresa Cullen  
Deputy City Attorney

APPROVED AS TO CONTENT:

Liza Ramirez-Tobias

Liza Ramirez-Tobias  
Capital Assets Manager

ACKNOWLEDGMENT

THE STATE OF TEXAS )

)

COUNTY OF EL PASO )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by  
**Joyce A. Wilson**, as **City Manager** of the **City of El Paso, Texas**.

My Commission Expires:

\_\_\_\_\_  
Notary Public, State of Texas

FRANKLIN SELF STORAGE LIMITED  
LIABILITY COMPANY

By: A. B. Peinado, Jr.  
Name: Arnold B. Peinado, Jr.  
Title: MANAGING MEMBER

By: Gustavo C. Quintana  
Name: Gustavo C. Quintana  
Title: MANAGING MEMBER

By: David A. Carmona  
Name: David A. Carmona  
Title: MANAGING MEMBER

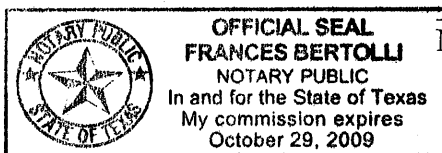
(Acknowledgments on next page)

ACKNOWLEDGMENT

THE STATE OF TEXAS )  
)  
COUNTY OF EL PASO )

This instrument was acknowledged before me on this 2<sup>nd</sup> day of June, 2009, by Arnold B. Peinado, Jr., as managing member of Franklin Self Storage Limited Liability Company.

My Commission Expires: \_\_\_\_\_



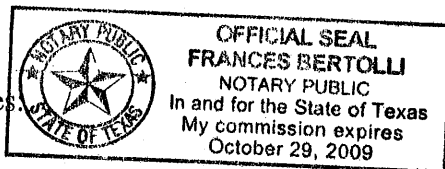
Frances Bertolli  
Notary Public, State of Texas

ACKNOWLEDGMENT

THE STATE OF TEXAS )  
)  
COUNTY OF L PASO )

This instrument was acknowledged before me on this 2<sup>nd</sup> day of June, 2009, by Gustavo C. Quintana, as managing member of Franklin Self Storage Limited Liability Company.

My Commission Expires: \_\_\_\_\_



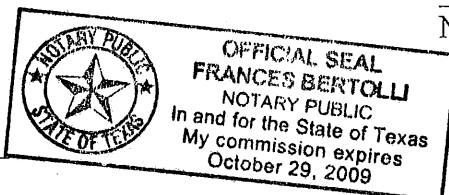
Frances Bertolli  
Notary Public, State of Texas

ACKNOWLEDGMENT

THE STATE OF TEXAS )  
)  
COUNTY OF EL PASO )

This instrument was acknowledged before me on this 2<sup>nd</sup> day of June, 2009, by David A. Carmona, as managing member of Franklin Self Storage Limited Liability Company.

My Commission Expires: \_\_\_\_\_



Frances Bertolli  
Notary Public, State of Texas

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THE STATE OF TEXAS §

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LEASE AGREEMENT

COUNTY OF EL PASO §

This Lease Agreement made this 2nd day of January, 2008, between the **CITY OF EL PASO**, a home rule municipal corporation (the "CITY"), and **FRANKLIN SELF STORAGE LIMITED LIABILITY COMPANY**, a Texas domestic limited liability company (the "LESSEE").

**WHEREAS**, in 1959 the City of El Paso leased an identified 60-foot tract to El Paso Natural Gas (EPNG) for its pipelines, and the lease has been amended and recorded in Volume, 01541, Page 00085; Volume 01572, Page 00235, and Volume 807, Page 1889, Real Property Records, El Paso, El Paso County, Texas; and

**WHEREAS**, the LESSEE has requested permission to cross a portion of the identified 60-foot wide easement leased to EPNG in Tract 1P1, H.G. Foster Survey No. 256, City of El Paso, El Paso County, Texas, with a 30-foot wide road; and

**WHEREAS**, the 1959 lease and amendments reserved the City's right to full use and enjoyment of the identified 60-foot wide tracts except for the rights granted to EPNG,

**WHEREAS**, the City staff has recommended the lease of the identified property if the LESSEE uses the surface of the Premises solely for a 30-foot wide road to access its abutting property within Tract 7D, H.G. Foster Survey No.256, El Paso, El Paso County, Texas, as more particularly described in Exhibit "A" attached hereto and made a part hereof by reference, and referred to throughout this Lease Agreement as the "Abutting Property", and the use does not hinder, conflict or interfere with EPNG's rights under the 1959 lease and its amendments; and

**WHEREAS**, EPNG has given its approval to the LESSEE'S proposed use of the identified 60-foot tract and the placement of fill dirt on 20 feet on either side of the proposed access road,

**NOW, THEREFORE**, for and in consideration of the following mutual covenants and agreements set forth herein, and other good and valuable consideration,

**1. PREMISES**

- 1.1 The CITY hereby grants to the LESSEE a lease of a 0.0414 acre parcel, more or less, located within an existing 60-foot wide El Paso Natural Gas Company Easement, and at Tract 1P1, H.G. Foster Survey No. 256, City of El Paso, El Paso County, Texas, being more particularly described in Exhibit "B" attached hereto and made a part hereof by reference, and referred to throughout this lease agreement as the "Premises," for the limited use defined herein. In addition, LESSEE may use up to 20 feet on

Exhibit "A"  
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either side of the Premises to place fill dirt to provide lateral support to the driveway that will be constructed on the Premises.

- 1.2 This lease is subject to the terms and conditions of the 1959 lease between the City of El Paso and El Paso Natural Gas (EPNG) for its pipelines, and the lease has been amended and recorded in Volume, 01541, Page 00085; Volume 1541, Page 00090; Volume 01572, Page 00235, and Volume 807, Page 1889, Real Property Records, El Paso, El Paso County, Texas, copies of which are attached hereto as Exhibit "C" and incorporated herein for all purposes.

## 2. TERM AND RENT

- 2.1 Term of Agreement. This Lease Agreement shall become effective \_\_\_\_\_, 2008 and shall be for a primary term of thirty (30) years from the effective date. The Lease Agreement may be extended for an additional twenty-one (21) year period through May 31, 2058, unless terminated as hereinafter provided in Section 6.0 of this Lease Agreement. The LESSEE must submit a written notice addressed to the City Capital Assets Manager no later than sixty (60) days prior to the expiration of the primary lease term of this Lease Agreement of its intention to extend.

- 2.2 Rent. The CITY and the LESSEE agree that the rental value for the Premises is FIFTY AND 00/100THS DOLLARS (\$50.00) per month (the Initial Base Rent") for the first year of the primary lease term of this Lease Agreement, as stated in Section 1.1 above. Beginning one year from the Commencement Date, the annual rental will be adjusted on each anniversary of the Commencement date (the "Adjustment Date") to reflect increases in the Consumer Price Index for "All Urban Consumers, U.S. City Average, All Items," issued by the Bureau of Labor Statistics of the United States Department of Labor.

- a. The adjustments in the Base Rent will be determined by multiplying the Base Rent specified in the lease ("the Initial Base Rent") by a fraction, the numerator of which is the index number for the last month before the adjustment and the denominator of which is the index number for the first month of the first year of the Term. If the product is greater than the Initial Base Rent, LESSEE will pay this greater amount as Base Rent until the next rental adjustment. Base Rent will never be less than the Initial Base Rent.
- b. The CITY will notify LESSEE of each adjustment to Base Rent no later than sixty (60) days after the Adjustment Date.

## 3.0 USE OF PREMISES

- 3.1 Use. The LESSEE agrees that it has permission to only use the surface of the Premises solely for access to its property that is located adjacent to the Premises. LESSEE agrees to abide by the terms and conditions of EPNG's March 1, 2007 consent, a copy of which is attached hereto as Exhibit "D" and incorporated herein for all purposes. No additional use of the Premises shall be allowed or constructed

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on the Premises without EPNG's written consent being tendered to and approved by the CITY.

Should the LESSEE fail to use the Premises for the identified uses, the CITY may send notice of failure, by certified mail, return receipt requested, to the LESSEE at the following address: 299 Shadow Mountain Drive, Suite C, El Paso, Texas 79912, and the LESSEE shall have thirty (30) days from the date of notice to correct the default. If the default has not been corrected within the time specified, the LESSEE shall reassign the remaining term of the lease back to the CITY and abandon the Premises.

- 3.2 Improvements. Under this Lease Agreement, the LESSEE is given permission to use the surface of the Premises for access and 20-feet on either side of the Premises for lateral support as allowed in Paragraph 1.1 in accordance with the terms of this Lease Agreement. The LESSEE shall submit to the CITY's Capital Assets Manager, the plans and specifications for any improvements, additions, alterations or changes as approved by EPNG in writing, and no work thereon shall be commenced until the CITY's Capital Assets Manager has given his/her approval, which permission the CITY agrees not to unreasonably withhold or delay. The LESSEE will remove or relocate any improvements, at its sole cost and expense, upon notice from the CITY's City Manager if the LESSEE's improvements interfere with any CITY operations or activities on the Premises.

- 3.2.1 This Lease Agreement in every sense shall be without cost to the CITY for the development, maintenance or improvement of the Premises, unless the CITY is specifically made responsible for such development, maintenance or improvement by the terms hereof. Except as noted in this paragraph, it shall be the sole responsibility of the LESSEE to keep, maintain, repair and operate the entirety of the Premises and all improvements at the LESSEE's sole cost and expense, including the fill dirt placed on either side of the Premises for lateral support as allowed in Paragraph 1.1.

- 3.2.2 The LESSEE stipulates and agrees that it has fully inspected the Premises prior to the execution of this Lease Agreement and that by executing this Lease Agreement it is accepting the Premises in its current condition.

- 3.2.3 The Premises are being leased "AS IS" and no warranties or representations expressed or implied have been made by the CITY, its employees, agents or representatives concerning the condition of the Premises, its habitability or fitness for a particular purpose.

- 3.2.4 The LESSEE understands and agrees that it shall maintain the access and the fill dirt placed on either side of the Premises for lateral support as allowed in Paragraph 1.1 in a neat, orderly and attractive condition at all times.

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- 3.3 Repairs. The LESSEE shall keep the Premises, including the improvements and the fill dirt placed on either side of the Premises for lateral support as allowed in Paragraph 1.1, in good condition and repair during the lease term of this Lease Agreement, as stated in Section 1.1 above. The LESSEE shall be solely responsible for any repairs needed during the lease term. The LESSEE shall at all times during the term of this Lease Agreement keep the Premises clean, orderly and in an attractive condition. In the event of damage or destruction of the improvements on the Premises, including the fill dirt placed on either side of the Premises for lateral support as allowed in Paragraph 1.1, the LESSEE shall promptly restore or replace the same in a reasonable time. Should the Premises not be in substantially the same condition as same were at the beginning of the term of this Lease Agreement except for those modifications approved by the CITY, the LESSEE shall make the necessary repairs to restore Premises to its pre-lease condition. At the conclusion of the lease, and at the discretion of the City Manager, a payment in the amount of such repairs, in an amount determined appropriate by the sole discretion of the City Manager may be accepted in lieu of completion of said repairs, cleaning, or painting.
- 3.3.1 AS IS. The LESSEE acknowledges that the premises are leased "AS IS." The LESSEE shall not request and the CITY shall not be responsible for completion of any improvements, modifications, corrections, repairs or the like believed helpful or necessary to the LESSEE's stated purpose, agenda or mission or believed necessary for the continuance of the Premises.
- 3.4 Maintenance. All other maintenance and upkeep of the Premises including the fill dirt placed on either side of the Premises for lateral support as allowed in Paragraph 1.1 shall be the responsibility of the LESSEE.
- 3.4.1 Garbage and Trash. The LESSEE shall provide a complete and proper arrangement for the adequate and proper handling and disposal, away from the Premises, of all trash, garbage and other refuse on the Premises.
- 3.4.2 Vegetation. The LESSEE shall maintain all vegetation on the Premises in accordance with applicable City Code provisions and other applicable laws, rules and regulations.
- 3.5 Utilities. The LESSEE shall be responsible for the payment of all utilities that are used on the Premises.
- 3.6 Improper Use. The LESSEE shall not permit on the Premises any entertainment, amusement or other activity that violates any federal, state and local laws and regulations.
- 3.7 Municipal Regulations. The LESSEE expressly agrees that the Premises will only be used for landscaping and access, which are in compliance with municipal regulations including applicable municipal zoning regulations.

#### 4.0 CONTRACTUAL RELATIONSHIP

4.1 The LESSEE is an independent contractor and is otherwise a tenant in a landlord-tenant relationship with the CITY. Except as may be expressly and unambiguously provided in this Lease Agreement, no partnership or joint venture is intended to be created by this Lease Agreement, nor any principal-agent or employer-employee relationship between the parties or any of their officers, employees, agents or sub-contractors.

4.1.1 As an independent contractor, the LESSEE understands and agrees that it will be responsible for its respective acts or omissions, and the CITY shall in no way be responsible as an employer to the LESSEE's officers, employees, agents, representative or sub-contractors who perform any service in connection with this Lease Agreement.

4.1.2 The LESSEE shall select its own employees and such employees shall be and shall act under the exclusive and complete supervision and control of the LESSEE.

4.2 The LESSEE understands and expressly agrees that, in all things relating to this Lease Agreement, the CITY is performing a governmental function, as defined by the Texas Tort Claims Act. The parties hereby agree that the CITY enters into this Lease Agreement as a governmental entity for the purpose of performing a governmental function.

#### 5.0 INSURANCE

5.1 Liability Insurance. The LESSEE understands and warrants that it shall provide liability insurance coverage in no less than the following amounts: \$250,000 per individual per occurrence for personal injury; \$500,000 per occurrence for personal injury for more than one person; \$100,000 for Premises damage (including damage to the facilities and the Premises) for the term of this Lease Agreement. The CITY, as owner of the Premises, shall be named as an additional named insured under the coverage. A Certificate of Insurance indicating such coverage will be provided to the CITY's Capital Assets Manager within ten (10) days of the execution of this Lease Agreement. Failure to provide the required proof of insurance, naming the CITY as an additional insured, shall result in the LESSEE's default in the terms of this Lease Agreement.

5.2 Cancellation. Each policy must expressly state that it may not be cancelled or non-renewed unless thirty (30) days advance notice of cancellation or intent not to renew is given in writing to the City Clerks office by the insurance company. The LESSEE shall give written notice to the City's Capital Assets Manager within five (5) days of the date upon which total claims by any party against the LESSEE reduce the aggregate amount of coverage below the amounts required by this Lease Agreement.

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- 5.4 Subrogation. Each policy must contain an endorsement to the effect that the issuer waives any claim or right in the nature of subrogation to recover against the CITY, its elected and appointed officials, officers, agents or employees.
- 5.5 Endorsement of Primary Insurance. Each policy must contain an endorsement that such policy is primary insurance, so long as it is customary in the industry and under Texas law for such insurance to be primary, to any other insurance available to the CITY, the Additional Insured, with respect to claims arising hereunder and that the insurance applies separately to each insured.
- 5.6 Liability for Premium. If any of the policies referred to above do not have a flat premium rate and such premium has not been paid in full, such policy must have a rider or other appropriate certificate of waiver sufficient to establish that the issuer is entitled to look only to the LESSEE for any further premium payment and has no right to recover any premiums for the CITY.

## 6.0 INDEMNIFICATION

- 6.1 THE LESSEE UNDERSTANDS AND AGREES THAT IT SHALL INDEMNIFY AND HOLD HARMLESS THE CITY AGAINST ANY AND ALL CLAIMS, DEMANDS, DAMAGES, COSTS AND EXPENSES, INCLUDING INVESTIGATION EXPENSES AND REASONABLE ATTORNEY FEES FOR THE DEFENSE OF SUCH CLAIMS AND DEMANDS, INCLUDING, BUT NOT LIMITED TO, INJURY TO OR DEATH OF ANY PERSON, ARISING OUT OF OR ATTRIBUTED DIRECTLY OR INDIRECTLY TO THE NEGLIGENT, GROSS NEGLIGENT, INTENTIONAL, MALPRACTICE OR WILLFUL ACTS OR OMISSIONS OF THE LESSEE, ITS AGENTS, SUB-CONTRACTORS, EMPLOYEES OR REPRESENTATIVES IN RENDERING THE SERVICES UNDER THIS LEASE AGREEMENT.

THE LESSEE FURTHER EXPRESSLY AGREES TO INDEMNIFY THE CITY FROM ANY AND ALL CLAIMS ARISING, IN WHOLE OR IN PART, FROM THE CONDUCT, ACTS OR OMISSIONS OF THE CITY AS THEY RELATE DIRECTLY OR INDIRECTLY TO THIS LEASE AGREEMENT, EVEN WHERE SUCH CLAIMS MAY INVOLVE NEGLIGENCE OR ALLEGATIONS OF NEGLIGENCE ON THE PART OF THE CITY OR ITS OFFICERS, EMPLOYEES OR AGENTS.

- 6.1.1 Without modifying the conditions of preserving, asserting or enforcing any legal liability against the CITY as required by the City Charter or any law, the CITY will promptly forward to the LESSEE every demand, notice, summons or other process received by the CITY in any claim or legal proceeding contemplated herein.

- 6.1.2 In addition, the LESSEE shall promptly advise the CITY in writing of any claim or demand against the CITY or the LESSEE known to the LESSEE

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related to or arising out of the LESSEE's activities under this Lease Agreement.

- 6.1.3 The LESSEE understands and agrees that it will 1) investigate or cause the investigation of accidents or occurrences involving such injuries or damages; 2) negotiate or cause to be negotiated the claim as the LESSEE may deem expedient; and 3) defend or cause to be defended on behalf of the CITY all suits for damages even if groundless, false or fraudulent, brought because of such injuries or damages.
- 6.1.4 The LESSEE understands and agrees that it will pay all final judgments establishing liability of the CITY in actions defended by the LESSEE pursuant to this section along with all attorneys' fees and costs incurred by the CITY including interest accruing to the date of payment by the LESSEE, and premiums on any appeal bonds.
- 6.1.5 The CITY, at its election will have the right to participate in any such negotiations or legal proceedings to the extent of its interest without relieving the LESSEE of any of its obligations under this paragraph.
- 6.1.6 In addition, the LESSEE hereby releases the CITY from any damage to its facilities or business that may result from the operation of CITY equipment or the work of CITY crews engaged in maintaining or repairing the Premises.

## 7.0 TERMINATION

This Lease Agreement may be terminated as provided herein.

- 7.1 Termination by Mutual Consent. The parties may terminate this Lease Agreement by mutual consent upon such terms as they may agree in writing.
- 7.2 Termination by Either Party. It is further understood and agreed by the LESSEE and the CITY that either party may terminate this Lease Agreement, in whole or in part, upon thirty (30) days written notice if the other party fails to perform any of its material obligations hereunder and fails to completely cure the breach after notice and an opportunity to cure such breach.
- 7.3 Termination by the City. If the LESSEE ceases to use or occupy the Premises for the purposes herein contemplated for a time period of more than twelve (12) continuous months, or if the LESSEE defaults in any of its obligations under this Lease Agreement and fails to correct such default within thirty (30) days written notice, the CITY may cancel said Lease Agreement and take possession of the Premises. In such an event, all rights of the LESSEE in the Premises, including buildings, facilities and improvements, shall then terminate. Any waiver by the CITY of any breach of any of the LESSEE's obligations shall not be deemed a continuing waiver and shall not prevent the CITY from exercising any remedy it

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may have for any succeeding breach of the same or another obligation of the LESSEE.

- 7.4 Time of Performance – Force Majeure. Neither party to this Lease Agreement will be liable for failure to comply with any term of this Lease Agreement when such failure is caused by an event of war, fire, earthquake, flood, strike, any law, rule, regulation or act of governmental authority, or any other act, event, cause or occurrence rendering a party to this Lease Agreement unable to perform its obligations, which is not within its reasonable control. The party affected by such event will immediately notify the other party in writing.
- 7.5 Termination Shall Not Be Construed as Release. Termination by either party shall not be construed as a release of any claims that may be lawfully asserted against the terminating party. Further, the terminated party shall not be relieved of any liability for damages sustained by the terminating party by virtue of any breach of this Lease Agreement.
- 7.6 Reversion of Improvements. Upon termination of this Lease Agreement for any reason, ownership of all improvements done by the LESSEE on the Premises shall revert to the CITY, without any additional compensation to the LESSEE.

## 8.0 GENERAL PROVISIONS

- 8.1 Taxes and Assessments. The LESSEE will promptly pay all taxes and assessments lawfully levied of the LESSEE's leasehold interest, on the use and crossing on the Premises.
- 8.2 Assignments and Subletting. The LESSEE shall not assign this Lease Agreement nor sublet the Premises or any part thereof without the prior written consent of the CITY. Provided, however, without the prior consent of the CITY, the LESSEE may collaterally assign this Lease Agreement to its interim and permanent lender in connection with the financing of the acquisition and construction of the improvements on the LESSEE's adjacent property. In the event of a collateral assignment, the LESSEE will provide the CITY with a copy of the collateral assignment upon execution thereof.
- 8.3 Liens and Encumbrances. The LESSEE shall not give nor permit any liens or encumbrances on the Premises, including but not limited to the facilities, buildings and improvements. Upon termination of this Lease Agreement, the LESSEE shall peacefully surrender such Premises to the CITY free of all such liens and encumbrances. The LESSEE shall defend and indemnify the CITY against any liability and loss of any type arising from any such lien or encumbrance on the Premises, including facilities, buildings and improvements, together with reasonable attorneys' fees, costs and expenses incurred by the CITY in negotiating, settling, defending or otherwise protecting against such liens and encumbrances.

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- 8.4 Inspections. The CITY shall have the right to enter the Premises at all reasonable times for the purpose of inspecting the same and determining compliance with the terms of this Lease Agreement.
- 8.5 Outside Lighting. Outside lighting will not be operated at such hours or with such intensity as to constitute a nuisance to the occupants of other Premises in the neighborhood or otherwise violate Chapter 18.18 (Outdoor Lighting) of the El Paso City Code. If this provision is violated, the CITY may require any such lighting to be extinguished, changed or removed at the LESSEE's expense.
- 8.6 Right of Assurance. Whenever one party to this Lease Agreement in good faith has reason to question the other party's intent to perform, said party may demand that the other party give written assurance of its intent to perform. In the event that a demand is made and no assurance is given within five (5) City business days, the demanding party may treat this failure as an anticipatory repudiation of the Lease Agreement.
- 8.7 Survival. Each party shall remain obligated to the other under all clauses of this Lease Agreement that expressly or by their nature extend beyond the expiration of termination of this Lease Agreement, including but not limited to the indemnification provisions hereof.
- 8.8 Amendments and Waiver. The parties may amend this Lease Agreement at any time by mutual consent. Unless otherwise provided herein, this Lease Agreement may be amended only by written instrument duly executed on behalf of the CITY and the LESSEE. No claim or right arising out of a breach of this Lease Agreement can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.
- 8.9 Complete Agreement. This Lease Agreement constitutes the entire agreement between the parties relating to the terms and conditions of the Lease Agreement. The parties expressly acknowledge and warrant that there exists no other written or oral understanding, agreements or assurances with respect to such matters except as are set forth herein. Unless expressly stated, this Lease Agreement confers no rights on any person(s) or business entity(s) that is not a party hereto. This Lease Agreement shall not be construed against or unfavorably to any party because of such party's involvement in the preparation or drafting of this Lease Agreement.
- 8.10 Governing Law. This Lease Agreement shall be construed and interpreted in accordance with the laws of the State of Texas, along with any applicable provisions of the federal law, the City Charter and/or any ordinance of the City of El Paso.
- 8.11 Severability. All agreements and covenants contained in this Lease Agreement are severable. Should any term or provision of this Lease Agreement be declared invalid by a court of competent jurisdiction, the parties intend that all other terms

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and provisions of this Lease Agreement should be valid and binding and have full force and effect as if the invalid portion had not been included.

8.12 Venue. For the purpose of determining place of this Lease Agreement and the law governing the same, this Lease Agreement is entered into in the City and County of El Paso, the State of Texas, and shall be governed by the laws of the State of Texas. Venue shall be in the County of El Paso, State of Texas.

8.13 Notices. All notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received via United States Postal Service post office or certified mail, return receipt requested addressed to the respective other party at the address below or at such other address as the receiving party may have theretofore prescribed by written notice to the sending party.

The initial addresses of the parties, which one party may change by giving written notice of its changed address to the other party, are as follows:

CITY: City of El Paso  
Attention: City Manager  
Two Civic Center Plaza  
El Paso, Texas 79901-1196

COPY TO: Capital Assets Manager  
Two Civic Center Plaza  
El Paso, Texas 79901-1196

LESSEE: Franklin Self Storage Limited Liability Company  
299 Shadow Mountain Drive, Suite C  
El Paso, Texas 79912

8.14 Warranty of Capacity to Execute Agreement. The person signing this Lease Agreement on behalf of the LESSEE warrants that he/she has the authority to do so and to bind the LESSEE to this Lease Agreement and all the terms and conditions contained herein.

**Each person signing below represents that he or she has read this Lease Agreement, and all attachments, in its entirety; understands its terms; and agrees on behalf of such party that such party will be bound by those terms.**

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Witness the following signatures:

CITY OF EL PASO

Joyce A. Wilson  
Joyce A. Wilson  
City Manager

APPROVED AS TO FORM:

Theresa Cullen-Garney  
Theresa Cullen-Garney  
Deputy City Attorney

APPROVED AS TO CONTENT:

Gonzalo Cedillos, P.E.  
Gonzalo Cedillos, P.E.  
Capital Assets Manager

APPROVED AS TO CONTENT:

Carmen Arrieta-Candelaria  
Carmen Arrieta-Candelaria, CFO  
Financial Services

ACKNOWLEDGMENT

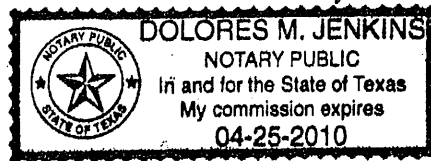
THE STATE OF TEXAS )  
COUNTY OF EL PASO )

This instrument was acknowledged before me on this 3rd day of January, 2008, by  
Joyce A. Wilson, as City Manager of the City of El Paso, Texas.

Dolores M. Jenkins  
Notary Public, State of Texas

My Commission Expires:

04/25/2010



(Signatures continued on next page)

FRANKLIN SELF STORAGE LIMITED  
LIABILITY COMPANY

By: A. B. Peinado  
Name: Arnold B. Peinado, Jr.  
Title: MANAGING PARTNER

By: Gustavo C. Quintana  
Name: Gustavo C. Quintana  
Title: MANAGING PARTNER

By: David A. Carmona  
Name: David A. Carmona  
Title: MANAGING PARTNER

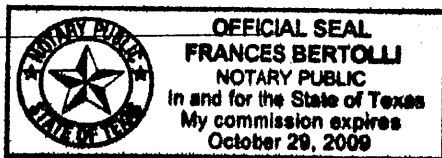
ACKNOWLEDGMENT

THE STATE OF Texas )  
COUNTY OF El Paso )

This instrument was acknowledged before me on this 12<sup>th</sup> day of December, 2007, by  
Arnold B. Peinado, Jr., as Managing Partner of Franklin Self Storage Limited Liability  
Company.

Frances Bertolli  
Notary Public, State of Texas

My Commission Expires:



(Acknowledgments continued on next page)

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EXHIBIT "A"  
12/31

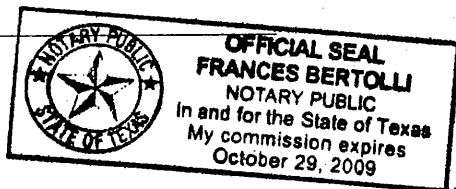
ACKNOWLEDGMENT

THE STATE OF Texas )  
COUNTY OF El Paso )

This instrument was acknowledged before me on this 12<sup>th</sup> day of December, 2007, by Gustavo C. Quintana, as Managing Partner of Franklin Self Storage Limited Liability Company.

Frances Bertolli  
Notary Public, State of Texas

My Commission Expires:



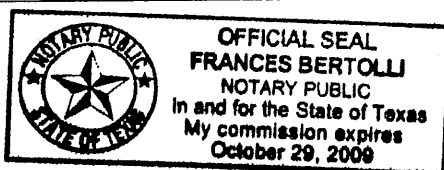
ACKNOWLEDGMENT

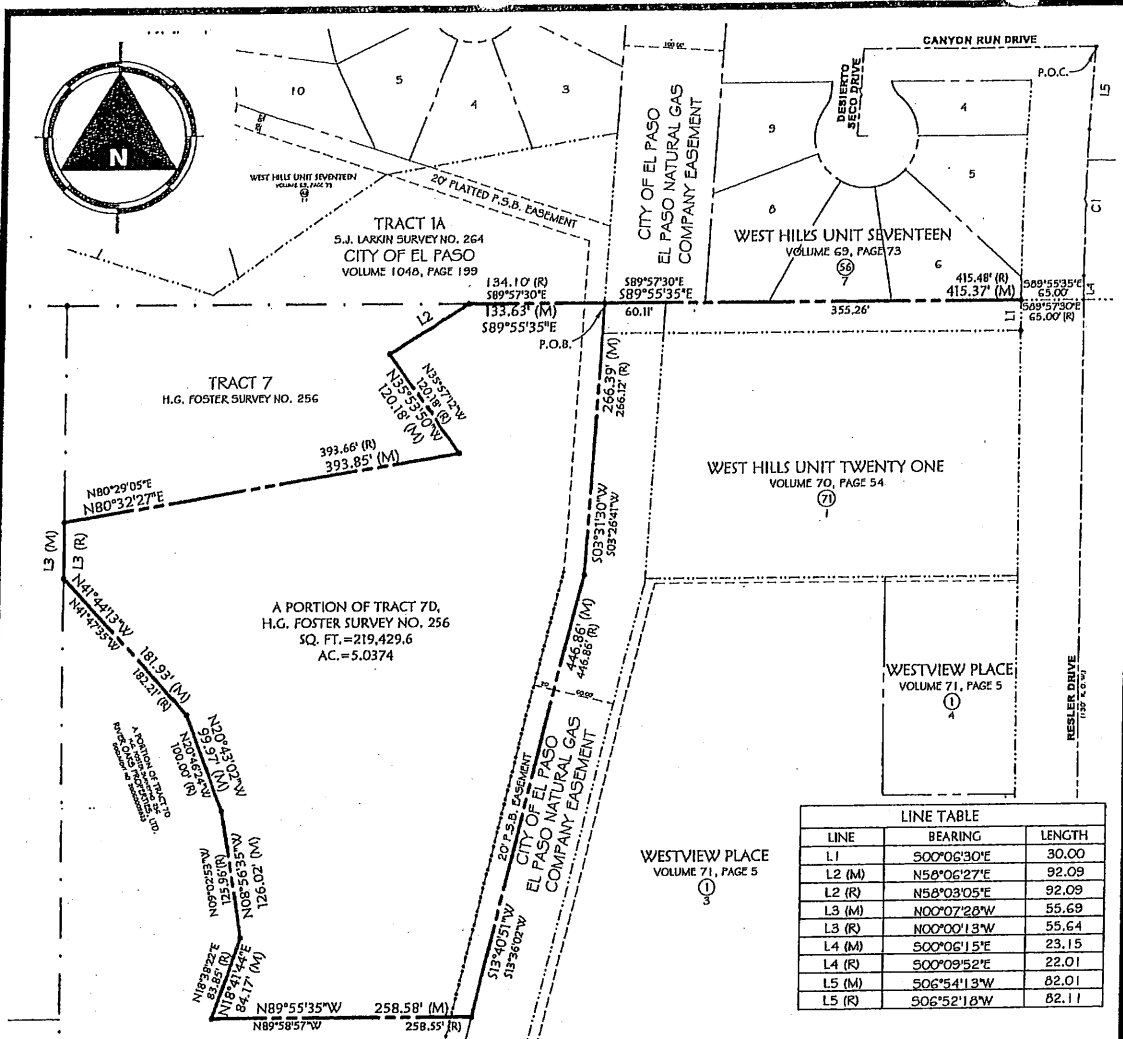
THE STATE OF Texas )  
COUNTY OF El Paso )

This instrument was acknowledged before me on this 12<sup>th</sup> day of December, 2007, by David A. Carmona, as Managing Partner of Franklin Self Storage Limited Liability Company.

Frances Bertolli  
Notary Public, State of Texas

My Commission Expires:





LINE TABLE		
LINE	BEARING	LENGTH
L1	S00°06'30"E	30.00
L2 (M)	N58°06'27"E	92.09
L2 (R)	N58°03'05"E	92.09
L3 (M)	N00°07'28"W	55.69
L3 (R)	N00°00'13"W	55.64
L4 (M)	S00°06'15"E	23.15
L4 (R)	S00°09'52"E	22.01
L5 (M)	S06°54'13"W	82.01
L5 (R)	S06°52'18"W	82.11

# SUPPLEMENTAL NOTES

1. BASIS OF BEARING IS THE MONUMENTED BOUNDARY LINE COMMON TO H.G. FOSTER SURVEY NO. 256 AND S.J. LARKIN SURVEY NO. 264. (AS SHOWN HEREON)
2. SUBJECT PROPERTY IS LOCATED IN ZONE 'C' (DESIGNATES AREAS OF MINIMAL FLOODING) AS DETAILED ON CITY OF EL PASO FLOOD INSURANCE RATE MAP PANEL NO. 480214 0022E, DATED JANUARY 3, 1997.
3. PARCEL NO. 1 IS ZONED 'A-O' (APARTMENT/OFFICE DISTRICT) AS DESIGNATED ON CITY OF EL PASO ZONING MAP NO. 0, DATED SETBACKS FOR ZONE 'A-O':  
FRONT: 20'  
REAR: 20'  
SIDE: 5'  
SIDE STREET: 10'

4. SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE COMMITMENT, EASEMENTS MAY EXIST WHERE NONE ARE SHOWN.
5. A METES & BOUNDS DESCRIPTION OF THE SAME DATE ACCOMPANIES THIS SURVEY.
6. RECORD INFORMATION CONTAINED WITHIN [BRACKETS] IS PER WEST HILLS UNIT SEVENTEEN, AS RECORDED IN VOLUME 69, PAGE 73, PLAT RECORDS, EL PASO COUNTY, TEXAS.
7. RECORD INFORMATION CONTAINED WITHIN (PARENTHESES) IS PER WEST HILLS UNIT TWENTY ONE, AS RECORDED IN VOLUME 70, PAGE 54, PLAT RECORDS, EL PASO COUNTY, TEXAS.
8. RECORD INFORMATION CONTAINED WITHIN [BRACKETS] IS PER LEGAL DESCRIPTION WRITTEN GUILLERMO LICON, R.P.L.S. TX. NO. 2996 OF SU ENGINEERING, INC., DATED JULY 16, 2007, JOB NO. 06-07-2580.

# CERTIFICATION

I HEREBY CERTIFY THAT THIS BOUNDARY SURVEY IS BASED ON AN ACTUAL SURVEY PERFORMED ON THE GROUND BY ME OR UNDER MY SUPERVISION, THAT THERE ARE NO ENCROACHMENTS, EXCEPT AS SHOWN AND THAT THE INFORMATION CONTAINED HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

*Isaac Camacho 12/17/07*  
ISAAC CAMACHO, R.P.L.S. TX. NO. 5337

# LEGEND

BOUNDARY/LOT/TRACT/R.O.W. LINE	---
CENTERLINE OF R.O.W.	---
EASEMENT LINE	---
SURVEY LINE	---
SUBDIVISION BOUNDARY	---
SET 1/2" REBAR WITH CAP STAMPED 'TX 5337'	○
FOUND 1/2" REBAR WITH STAMPED 'TX 2996'	●
FOUND CITY MONUMENT	⊙
FOUND 2" PIPE	⊗
LOT NUMBER	2
BLOCK NUMBER	②
RECORD BEARING & DISTANCE	[R]
MEASURED BEARING & DISTANCE	[M]
POINT OF BEGINNING	P.O.B.
POINT OF COMMENCEMENT	P.O.C.

CURVE TABLE						
CURVE	RADIUS	LENGTH	TANGENT	CHORD	CHORD BEARING	DELTA
CH(M)	2476.97	303.14	151.76	302.95	S03°23'52"W	07°00'43"
CI(R)	2476.97	304.16	152.26	303.99	S03°21'13"W	07°02'10"

# BOUNDARY SURVEY

DRAWN BY: F.L. CHECKED BY: I.C. DATE: 12-17-2007 SCALE: 1" = 150'

TRACT 1P1 AND A PORTION OF A 60 FEET WIDE EL PASO NATURAL GAS COMPANY EASEMENT, H.G. FOSTER SURVEY NO. 256, CITY OF EL PASO, EL PASO COUNTY, TEXAS.



**BROCK & BUSTILLOS INC.**  
CONSULTING CIVIL ENGINEERS  
LAND SURVEYORS

417 EXECUTIVE CENTER~EL PASO, TX 79902~PH (915) 542-4900  
FAX (915) 542-2867~WWW.BROCKBUSTILLOS.COM

FILE NO: E-6564-03

Exhibit "A"  
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CITY CLERK DEPT.  
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**BROCK & BUSTILLOS INC.**  
CONSULTING CIVIL ENGINEERS  
LAND SURVEYORS

ROMAN BUSTILLOS, P.E.  
President

RANDY P. BROCK, P.E.  
Executive Vice President

SERGIO J. ADAME, P.E.  
Vice President - Engineering

OSCAR V. PEREZ  
Vice President - Operations

ISAAC CAMACHO, R.P.L.S.  
Survey Manager

## METES AND BOUNDS DESCRIPTION

"Parcel No. 3"

*A 5.0374 acre parcel situate within the corporate limits of the City of El Paso, El Paso County, Texas, as a portion of Tract 7D, H.G. Foster Survey No. 256 and being more particularly described by metes and bounds as follows to wit:*

**COMMENCING** for reference at a City Monument found at the centerline intersection of Canyon Run Drive (56.00 feet wide) and Resler Drive (130.00 feet wide); **THENCE**, leaving the centerline of Canyon Run Drive and following the centerline of Resler Drive, South 06°54'13" West (South 06°52'18" West ~ record), a distance of 82.01 feet (82.11 feet ~ record) to a point of curvature; **THENCE**, continuing along the centerline of Resler Drive and with the arc of a curve to the left having a radius of 2,476.97 feet, a central angle of 07°00'43" (07°02'10" ~ record), an arc length of 303.14 feet (304.18 feet ~ record) and a long chord which bears, South 03°23'52" West (South 03°21'13" West ~ record) a distance of 302.95 feet (303.97 feet ~ record) to the end of said curve to the left; **THENCE**, continuing along the centerline of Resler Drive, South 00°06'15" East (South 00°09'52" East ~ record), a distance of 23.15 feet (22.01 feet ~ record) to the boundary line common to H.G. Foster Survey No. 256 and S.J. Larkin Survey No. 264; **THENCE**, leaving the centerline of Resler Drive and following the boundary line common to said Surveys No. 256 and 264, North 89°55'35" West (North 89°57'30" West ~ record), at a distance of 65.00 feet pass the westerly right-of-way line of Resler Drive, continuing along the boundary line common to said Survey No. 256 and West Hills Unit Seventeen, as recorded in Volume 69, Page 73, Plat Records, El Paso County, Texas, at a distance of 380.37 feet pass the easterly boundary line of an existing 100.00 feet wide El Paso Natural Gas Company Easement, and continuing along the boundary line common to said Surveys No. 256 and 264, at a total distance of 480.37 feet to the westerly boundary line of said Gas Company Easement (100.00 feet wide) for the northeast corner and **POINT OF BEGINNING** of the parcel herein described;

**THENCE**, leaving the boundary line common to said Survey Nos. 256 and 264 and following the westerly boundary line of said Gas Company Easement, South 03°31'30" West (South 03°26'41" West ~ record), a distance of 266.39 feet (266.12 feet ~ record) to a ½" rebar with cap stamped "TX 2998" found for an angle point of the parcel herein described;

**THENCE**, continuing along the westerly boundary line of said Gas Company Easement, South 13°40'51" West (South 13°36'02" West ~ record), a distance of 446.86 feet to a ½" rebar with cap stamped "TX 2998" found for the southeast corner of the parcel herein described;

**THENCE**, leaving the westerly boundary line of said Gas Company Easement, North 89°55'35" West (North 89°58'57" West ~ record), a distance of 258.58 feet (258.55 ~ record) to a ½" rebar with cap stamped "TX 5337" set for the southwest corner of the parcel herein described;

**THENCE**, North 18°41'44" East (North 18°38'22" East ~ record), a distance of 84.17 feet (83.85 feet ~ record) to a ½" rebar with cap stamped "TX 2998" found for an angle point of the parcel herein described;

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**THENCE**, North 08°56'35" West (North 09°02'53" West ~ record), a distance of 126.02 feet (125.96 feet ~ record) to a ½" rebar with cap stamped "TX 2998" found for an angle point of the parcel herein described;

**THENCE**, North 20°43'02" West (North 20°46'24" West ~ record), a distance of 99.97 feet (100.00 feet ~ record) to a ½" rebar with cap stamped "TX 5337" set for an angle point of the parcel herein described;

**THENCE**, North 41°44'13" West (North 41°47'35" West ~ record), a distance of 181.93 feet (182.21 feet ~ record) to a ½" rebar with cap stamped "TX 5337" set on the common line between Tract 7D, H.G. Foster Survey No. 256 and Tract 11, S.A. & M.G. R.R. Co. Survey No. 268;

**THENCE**, following the common line between Tract 7D, H.G. Foster Survey No. 256 and Tract 11, S.A. & M.G. R.R. Co. Survey No. 268, North 00°07'28" West (North 00°00'13" West ~ record), a distance of 55.69 feet (55.64 feet ~ record) to a 5/8" rebar with cap stamped "SLP" found for the southwest corner of Tract 7, H.G. Foster Survey No. 256;

**THENCE**, leaving the common line between Tract 7D, H.G. Foster Survey No. 256 and Tract 11, S.A. & M.G. R.R. Co. Survey No. 268 and following the southerly line of Tract 7, North 80°32'27" East (North 80°29'05" East ~ record), a distance of 393.85 feet (393.66 feet ~ record) to a 1/2" rebar with cap stamped "TX 2998" found for the southeasterly corner of said Tract 7;

**THENCE**, leaving the southerly line of said Tract 7 and following the easterly line of said Tract 7, North 35°53'50" West (North 35°57'12" West ~ record), a distance of 120.18 feet to a 1/2" rebar with cap stamped "TX 2998" found for an angle point of the parcel herein described;

**THENCE**, North 58°06'27" East (North 58°03'05" East ~ record), a distance of 92.09 feet to a 1/2" rebar with cap stamped "TX 2998" found on the boundary line common to H.G. Foster Survey No. 256 and S.J. Larkin Survey No. 264;

**THENCE**, following the boundary line common to H.G. Foster Survey No. 256 and S.J. Larkin Survey No. 264, South 89°55'35" East (South 89°57'30" East ~ record), a distance of 133.63 feet (134.10 feet ~ record) to the **TRUE POINT OF BEGINNING**.

Said Parcel contains 5.0374 acres (219,429.6 square feet) more or less.

Isaac Camacho  
Isaac Camacho, R.P.L.S. TX No. 5337  
Date: December 17, 2007  
Job No. E-6564-03



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Exhibit A  
3 of 3

Exhibit "A"  
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**BROCK & BUSTILLOS INC.**  
CONSULTING CIVIL ENGINEERS LAND SURVEYORS

ROMAN BUSTILLOS, P.E.  
President  
RANDY P. BROCK, P.E.  
Executive Vice President  
SERGIO J. ADAME, P.E.  
Vice President - Engineering  
OSCAR V. PEREZ  
Vice President - Operations  
ISAAC CAMACHO, R.P.L.S.  
Survey Manager

## METES AND BOUNDS DESCRIPTION

"Parcel No. 2"

*A 0.0414 acre parcel situate within the corporate limits of the City of El Paso, El Paso County, Texas, as a portion of an existing 60.00 feet wide El Paso Natural Gas Company Easement, and being more particularly described by metes and bounds as follows to wit:*

**COMMENCING** for reference at a City Monument found at the centerline intersection of Canyon Run Drive (56.00 feet wide) and Resler Drive (130.00 feet wide); **THENCE**, leaving the centerline of Canyon Run Drive and following the centerline of Resler Drive, South 06°54'13" West (South 06°52'18" West ~ record), a distance of 82.01 feet (82.11 feet ~ record); **THENCE**, continuing along the centerline of Resler Drive and with the arc of a curve to the left having a radius of 2476.97 feet, a central angle of 07°00'43" (07°02'10" ~ record), an arc length of 303.14 feet (304.18 feet ~ record) and a long chord which bears, South 03°23'52" West (South 03°21'13" West ~ record); **THENCE**, continuing along the centerline of Resler Drive, South 00°06'15" East (South 00°09'52" East ~ record), a distance of 23.15 feet (22.01 feet ~ record) to the boundary line common to H.G. Foster Survey No. 256 and S.J. Larkin Survey No. 264; **THENCE**, leaving the centerline of Resler Drive and following the boundary line common to said Surveys No. 256 and 264, North 89°55'35" West (North 89°57'30" West ~ record), at a distance of 65.00 feet pass the westerly right-of-way line of Resler Drive, continuing along the boundary line common to said Survey No. 256 and West Hills Unit Seventeen, as recorded in Volume 69, Page 73, Plat Records, El Paso County, Texas, at a distance of 380.37 feet pass the easterly boundary line of an existing 100.00 feet wide El Paso Natural Gas Company Easement, and continuing along the boundary line common to said Surveys No. 256 and 264 a total distance of 420.26 feet to a ½" rebar with cap stamped "TX 2998" found on the easterly boundary line of said Gas Company Easement (60.00 feet wide) for the northeast corner and **POINT OF BEGINNING** of the parcel herein described;

**THENCE**, leaving the boundary line common to said Survey Nos. 256 and 264 and following the easterly boundary line of said Gas Company Easement, South 03°31'30" West (South 03°26'41" West ~ record), a distance of 30.05 feet to a ½" rebar with cap stamped "TX 2998" found on the boundary line common to Tract 1P1, H.G. Foster Survey No. 256 and West Hills Unit Twenty One, as recorded in Volume 70, Page 54, Plat Records, El Paso County, Texas for the southeast corner of the parcel herein described; Identical to the northwest corner of Lot 1, Block 71, West Hills Unit Twenty One and the southwest corner of said Tract 1P1;

**THENCE**, leaving the easterly boundary line of said Gas Company Easement, North 89°55'35" West (North 89°58'57" West ~ record), a distance of 60.11 feet to a ½" rebar with cap stamped "TX 5337" set on the boundary line common to said Gas Company Easement and Tract 7D, H.G. Foster Survey No. 256 for the southwest corner of the parcel herein described;

Exhibit "B"

Exhibit "A"  
17 of 31

1 of 3

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**THENCE**, following the boundary line common to said Gas Company Easement and said Tract 7D, North 03°31'30" East (North 03°26'41" East ~ record), a distance of 30.05 feet to a ½" rebar with cap stamped "TX 2998" found at the intersection of the westerly boundary line of the aforementioned 100.00 feet wide Gas Company Easement and the boundary line common to said Survey Nos. 256 and 264 for the northwest corner of the parcel herein described; Identical to the southeast corner of Tract 1A, S.J. Larkin Survey No. 264; **WHENCE**, a 2" pipe found at the intersection of the boundary line common to said Survey No. 256 and S.A. & M.G. Railroad Company Survey Nos. 268 and the boundary line common to said Survey Nos. 256 and 264, bears, North 89°57'51" West (North 89°57'30" West ~ record), a distance of 530.31 feet;

**THENCE**, leaving the boundary line common to said Tract 7D and said Gas Company Easement and following the boundary line common to said Survey Nos. 256 and 264, South 89°55'35" East (South 89°57'30" East ~ record), a distance of 60.11 feet to the **TRUE POINT OF BEGINNING**.

*Said Parcel contains 0.0414 acres (1,803.3 square feet) more or less.*

Isaac Camacho  
Isaac Camacho, R.P.L.S. TX No. 5337  
Date: November 15, 2007  
Job No. E-6564-03

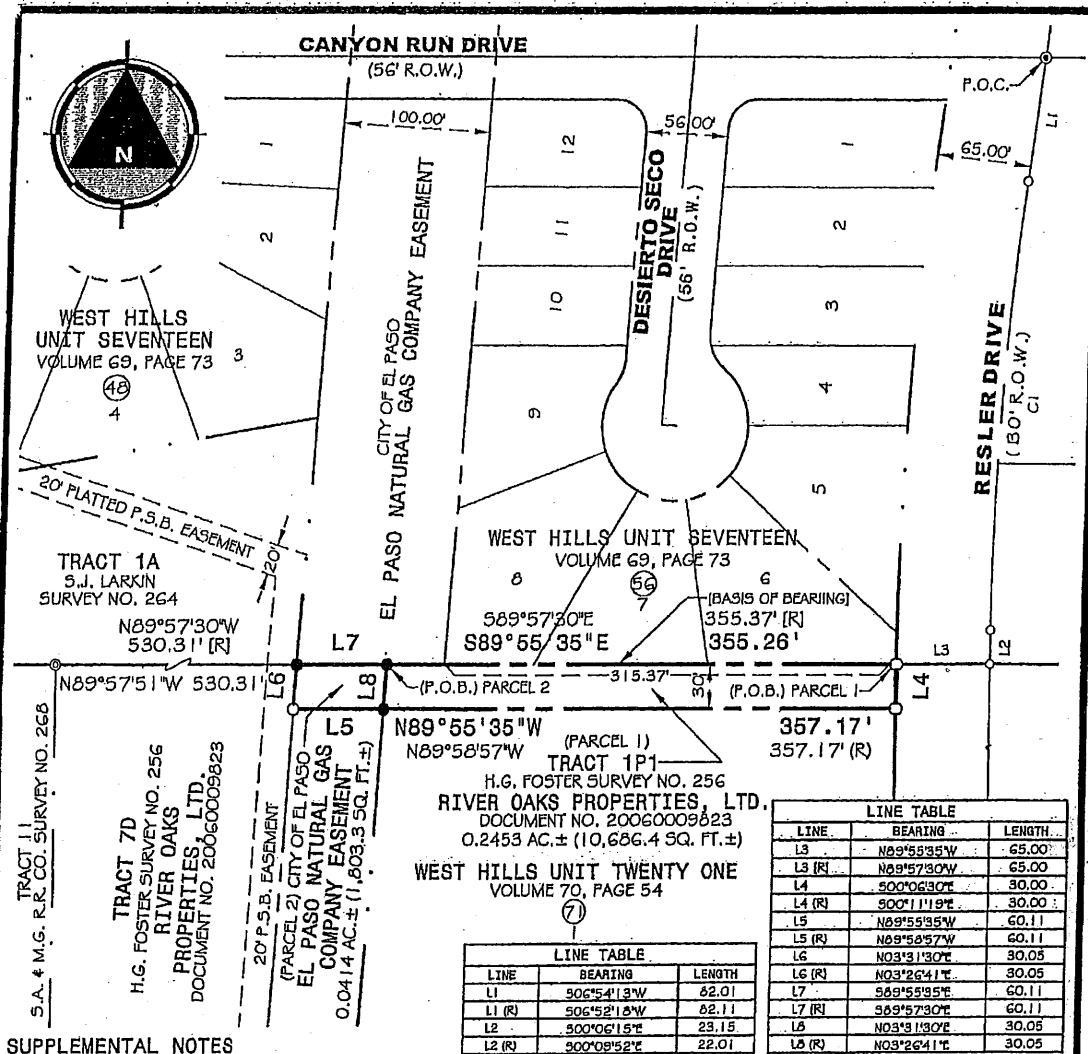


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Exhibit "B"  
20/3

Exhibit "A"  
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**SUPPLEMENTAL NOTES**

1. BASIS OF BEARING IS THE MONUMENTED BOUNDARY LINE COMMON TO H.G. FOSTER SURVEY NO. 256 AND S.J. LARKIN SURVEY NO. 264. (AS SHOWN HEREON)
2. SUBJECT PROPERTY IS LOCATED IN ZONE 'C' (DESIGNATES AREAS OF MINIMAL FLOODING) AS DETAILED ON CITY OF EL PASO FLOOD INSURANCE RATE MAP PANEL NO. 480214 0022E, DATED JANUARY 3, 1997.
3. PARCEL NO. 1 IS ZONED 'A-O' (APARTMENT/OFFICE DISTRICT) AS DESIGNATED ON CITY OF EL PASO ZONING MAP NO. 0, DATED  
 SETBACKS FOR ZONE 'A-O':  
 FRONT: 20'  
 REAR: 20'  
 SIDE: 5'  
 SIDE STREET: 10'
4. SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE COMMITMENT, EASEMENTS MAY EXIST WHERE NONE ARE SHOWN.
5. A METES & BOUNDS DESCRIPTION OF THE SAME DATE ACCOMPANIES THIS SURVEY.
6. RECORD INFORMATION CONTAINED WITHIN [BRACKETS] IS PER WEST HILLS UNIT SEVENTEEN, AS RECORDED IN VOLUME 69, PAGE 73, PLAT RECORDS, EL PASO COUNTY, TEXAS.
7. RECORD INFORMATION CONTAINED WITHIN (PARENTHESES) IS PER WEST HILLS UNIT TWENTY ONE, AS RECORDED IN VOLUME 70, PAGE 54, PLAT RECORDS, EL PASO COUNTY, TEXAS.
8. RECORD INFORMATION CONTAINED WITHIN [BRACKETS] IS PER LEGAL DESCRIPTION WRITTEN GUILLERMO UCON, R.P.L.S. TX. NO. 2890 OF SUI ENGINEERING, INC., DATED JULY 16, 2007, JOB NO. 06-07-2500.

**CERTIFICATION**

I HEREBY CERTIFY THAT THIS BOUNDARY SURVEY IS BASED ON AN ACTUAL SURVEY PERFORMED ON THE GROUND BY ME OR UNDER MY SUPERVISION, THAT THERE ARE NO ENCROACHMENTS, EXCEPT AS SHOWN AND THAT THE INFORMATION CONTAINED HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

*Isaac Camacho*  
 ISAAC CAMACHO, R.P.L.S. TX. NO. 5337

LINE TABLE		
LINE	BEARING	LENGTH
L1	S06°54'12"W	62.01
L1 (R)	S06°52'18"W	62.11
L2	S00°06'15"E	23.15
L2 (R)	S00°08'52"E	22.01

LINE TABLE		
LINE	BEARING	LENGTH
L3	N89°53'35"W	65.00
L3 (R)	N89°57'30"W	65.00
L4	S00°06'30"E	30.00
L4 (R)	S00°11'18"E	30.00
L5	N89°55'55"W	60.11
L5 (R)	N89°58'57"W	60.11
L6	N03°13'30"E	30.05
L6 (R)	N03°26'41"E	30.05
L7	S89°55'55"E	60.11
L7 (R)	S89°57'30"E	60.11
L8	N03°13'30"E	30.05
L8 (R)	N03°26'41"E	30.05

**LEGEND**

- BOUNDARY/LOT/TRACT/R.O.W. LINE
- CENTERLINE OF R.O.W.
- EASEMENT LINE
- SURVEY LINE
- SUBDIVISION BOUNDARY
- SET 1/2" REBAR WITH CAP STAMPED "TX 5337"
- FOUND 1/2" REBAR WITH STAMPED "TX 2998"
- FOUND CITY MONUMENT
- FOUND 2" PIPE
- LOT NUMBER
- BLOCK NUMBER
- RECORD BEARING + DISTANCE
- MEASURED BEARING + DISTANCE
- POINT OF BEGINNING
- POINT OF COMMENCEMENT

CURVE TABLE				
CURVE	RADIUS	LENGTH	CHORD	CHORD BEARING
C1	2476.97	303.14	302.95	S03°23'52"W
C1 (R)	2476.97	304.18	303.99	S03°21'13"W

**BOUNDARY SURVEY**

DRAWN BY: E.R. CHECKED BY: I.C. DATE: 11-15-2007 SCALE: 1" = 100'  
 TRACT 1P1 AND A PORTION OF A 60 FEET WIDE EL PASO NATURAL GAS COMPANY EASEMENT, H.G. FOSTER SURVEY NO. 256, CITY OF EL PASO, EL PASO COUNTY, TEXAS.



**BROCK & BUSTILLOS INC.**  
 CONSULTING CIVIL ENGINEERS  
 LAND SURVEYORS

417 EXECUTIVE CENTER-EL PASO, TX 79902-PH (915) 542-4900  
 FAX (915) 542-2867-WWW.BROCKBUSTILLOS.COM

FILE NO: E-6564-03

Exhibit "B"  
 2-1-2

Exhibit "A"  
 19 of 31

CITY CLERK DEPT.  
 07 DEC 12 PM 4:44

85 85

STATE OF TEXAS  
COUNTY OF EL PASO

1808  
THIS LEASE, made this 3rd day of June, 1959,  
by and between the CITY OF EL PASO, TEXAS, hereinafter called  
"Lessor," and EL PASO NATURAL GAS COMPANY, a Delaware corporation,  
hereinafter called "Lessee,"

W I T N E S S E T H:

1. Lessor has leased and demised and by these presents does  
lease and demise unto Lessee the following described vacant land  
situated in the County of El Paso and State of Texas, hereinafter  
designated as Tracts I, II, III and IV, being more particularly  
described as follows:

TRACT I

A strip of land 60 feet in width and a total length  
of 61,380 feet, lying within Sections 29, 28, 33, 34,  
and 39, Block 80, Township 2, and being a portion of  
the same land granted to El Paso Natural Gas Company  
by right-of-way easement by the U. S. Government  
acting through the Secretary of War by instrument  
dated July 29, 1941, reference to which is here made  
for all purposes, the center line of which coincides  
with the land where Lessee's pipelines are laid at  
present and which center line begins at a point in the  
Northeast part of said Section 29; thence in a south-  
easterly direction to a point on the North edge of the  
pavement of U. S. Highway No. 62.

TRACT II

A strip of land 60 feet in width, the center line of  
which coincides with the land where Lessee's pipelines  
are laid at present, and which center line begins at a  
point in the North section line of Section 232, Laura E.  
Mundy Survey, El Paso County, Texas, which point is 1750  
feet East of the West line of said Section 232; thence  
in a straight line southeasterly to a point in the South  
line of said Section 232 which is 1950 feet East of the  
West line of said section.

TRACT III

A strip of land 60 feet in width, the center line of  
which coincides with the land where Lessee's pipelines  
are laid at present, and which center line begins at a  
point in the North section line of Section 245, Nellie D.  
Mundy Survey, El Paso County, Texas, which point is 2230  
feet West of the East line of said Section 245; thence  
in a straight line southeasterly to a point in Section  
10, Block 82, Texas & Pacific Railway Company Survey,  
El Paso County, Texas; thence southeasterly in a straight  
line to a point in the South section line of said

CITY CLERK DEPT.  
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Exhibit "C"  
1 of 11

Exhibit "A"  
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86 86

Section 10 which is 1400 feet from the West line of said section.

## TRACT IV

A strip of land 60 feet in width, the center line of which coincides with the land where Lessee's pipelines are laid at present, and which center line begins at a point in the North section line of Section 256, Hugh G. Foster Survey, El Paso County, Texas; thence in a southeasterly direction to a point in the South section line of said Section 256 which is 721.9 feet from the West section line of Section 211.

A survey is now being made by Lessor's engineers to determine a metes and bounds description of the land herein leased and demised. The parties hereto agree that when said survey is completed, said metes and bounds description will be added to this agreement as a supplement.

2. The term of this lease shall be for ninety-nine (99) years commencing on the date of the execution of this agreement and ending in May, 2058, on a day which shall be a full ninety-nine (99) years from and after the execution date, unless sooner abandoned pursuant to Section 10 hereof.

3. As consideration for the execution of this lease, Lessee has leased and demised to Lessor, by instrument of even date herewith, the following described property:

Beginning at a point, said point being the Northwest corner of the H. G. Foster Survey 256 and the Northeast corner of the S.A. & M.G.R.R. Co. Survey 268 and said point being also in the South line of the S. J. Larkin Survey 264; thence North a distance of 3200 feet; thence West a distance of 2800 feet to a point in the West boundary line of the S. J. Larkin Survey 264; thence South a distance of 3200 feet to a point, said point being the Southwest corner of the S. J. Larkin Survey 264; thence East along the South boundary line of the S. J. Larkin Survey 264, a distance of 2800 feet to the point of beginning and containing in all, 205.7 acres of ground, more or less.

4. The Lessee may use the land leased for the construction, maintenance, repair and operation of a pipeline or pipelines and facilities for the transportation of natural gas; and will not use the premises for any other purpose except by written consent of the Lessor. The Lessee will comply with all applicable laws, ordinances and regulations relating to health and safety and will keep the property in good and clean condition.

5. Lessor under the lease reserves the right to full use and enjoyment of said premises except as to the rights heretofore granted

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Exhibit "C"

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Exhibit "A"

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87 87

under this lease and the Lessee hereby agrees to pay any damages which may arise from the exercise of the rights herein granted; said damages, if not mutually agreed upon, to be ascertained and determined by three disinterested persons, one thereof to be appointed by the Lessor, one by the Lessee or assigns, and the third by the two so appointed as aforesaid. The award of such three persons or any two of them shall be final and conclusive. Lessor represents to Lessee that the leased property is so zoned as to permit its use for a pipeline or pipelines.

6. The Lessor in the use of the property shall not hinder, conflict or interfere with the exercise of the Lessee's rights hereunder, and no building, reservoir or structure shall be constructed on the leased premises without the Lessee's written consent.

7. Lessee under this lease shall have the right of ingress and egress across Lessor's property but shall be entitled, though not required, to use the most convenient roadway across same.

8. For the same consideration expressed herein, the Lessee, its successors or assigns, shall have the right at any time to lay additional lines of pipe alongside the line or lines already laid, and all the terms hereof shall apply to such additional lines.

9. Lessee agrees to bury all pipelines to a sufficient depth so as not to interfere with the cultivation of said land by Lessor or others to whom Lessor may lease said land for grazing purposes, cultivation or otherwise.

10. Lessee, upon permanent abandonment of the right-of-way and removal of all lines and other improvements constructed thereon, shall execute and record a release hereof, whereupon this lease and all rights and privileges herein mutually granted shall be fully cancelled and terminated.

11. The Lessor and the Lessee agree that the Lessor shall have the right to build roads and streets over the easement granted herein, and in the event a road crosses over said easement and pipeline in such a manner that in the opinion of the Lessor requires a change in the grade of the pipeline which is constructed in this

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Exhibit "C"  
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Exhibit "A"  
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88  
 easement by the Lessee, then the Lessee agrees to change the grade of said pipeline at its expense.

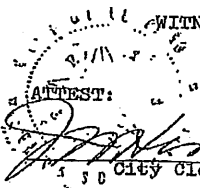
12. It is expressly agreed by the Lessee that no fences shall be constructed upon the easement granted herein unless the written consent to construct such a fence is first obtained from the Lessor.

13. The Lessee agrees to indemnify and hold the Lessor free and harmless from any and all claims or damages which the said Lessor may be compelled to pay on account of the injury to the person or property of any other person where said injuries aforesaid are caused by the use of the said easement, or maintenance, repair or operation of its pipeline in said easement granted to the Lessee or misconduct of the Lessee or negligence of the Lessee, its agents, servants or employees.

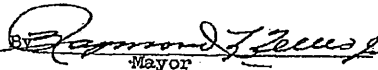
14. The Lessee may assign this lease to any reputable person, firm or corporation without obtaining permission of the Lessor, but will give Lessor written notice of any such assignment within sixty (60) days after it becomes effective.

15. The Lessor may cancel this lease for breach of any obligation of the Lessee hereunder, if the Lessor has first given Lessee written notice of such intention and the Lessee has failed to correct such breach within sixty (60) days after such notice.

WITNESS the following signatures and seals:

ATTEST:  
  
 City Clerk

THE CITY OF EL PASO, Lessor

By   
 Mayor

EL PASO NATURAL GAS COMPANY,  
 Lessee

ATTEST:  
  
 Assistant Secretary

By   
 Vice President

CITY CLERK DEPT.  
 07 DEC 12 PM 4:45

Exhibit "C"

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Exhibit "A"  
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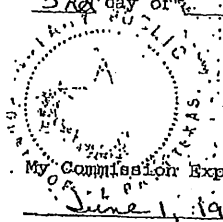
89 89

STATE OF TEXAS

COUNTY OF EL PASO

Before me, the undersigned authority, on this day personally appeared RAYMOND L. TELLES, JR., Mayor of the CITY OF EL PASO, TEXAS, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed, and as the act of said City.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 3rd day of June, 1959.



R. H. Cabel  
Notary's Signature

R. H. Cabel  
Notary's Name Typed or Printed

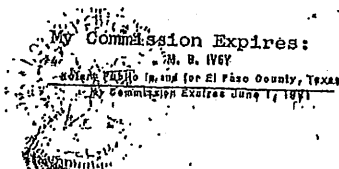
Notary Public in and for the  
County and State aforesaid.

STATE OF TEXAS

COUNTY OF EL PASO

Before me, the undersigned authority, on this day personally appeared H. P. STEEN, Vice President of the EL PASO NATURAL GAS COMPANY, a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed, and as the act of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 8 day of June, 1959.



M. B. Drey  
Notary's Signature

Notary Public in and for El Paso County, Texas  
My Commission Expires June 1, 1961

Notary's Name Typed or Printed

Notary Public in and for the  
County and State aforesaid.

CITY CLERK DEPT.  
07 DEC 12 PM 4:45

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Exhibit "A"  
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90 90

As authorized by the last paragraph of Section 1 of this lease from the City of El Paso, Texas to El Paso Natural Gas Company, dated June 3, 1959, it is agreed by the parties hereto that the following supplemental description of Tract No. I shall be substituted for, and is in lieu of and completely supplants the description set out for said Tract No. I on the first page of this lease.

A strip of land 60 feet in width across Sections 39, 34, 33, 28 and 29, Block 80, Township 2, T.&P.R.R. Co. Survey, El Paso County, Texas, the center line of which coincides with the line where Lessee's pipelines are laid at present and which center line description is more particularly described as follows:

Beginning at a point on the North Right of Way Line of U. S. Highway No. 62, said point bears South 80° 48' 34" East, distant 3050.63 feet from the northwest corner of said Section 39 (a concrete monument with bolt marked); thence North 8° 50' West, a distance of 36.8 feet; thence North 40° 40' West, a distance of 6266.4 feet to a point which bears North 13° 40' 12" West, distant 4408.37 feet from the northwest corner of said Section 39 (previously described) containing 8.63 acres, more or less.

Beginning at a point in said Section 28, said point bears South 24° 01' 05" East, distant 2397.4 feet from the northwest corner of said Section 28 (a concrete monument and marked brass cap); thence North 40° 40' West, a distance of 2000.0 feet to a point which bears South 25° 50' 55" West, distant 744.2 feet from the northwest corner of said Section 28 containing 2.75 acres, more or less.

THE CITY OF EL PASO, Lessor

*[Signature]*  
City Clerk

*[Signature]* *OK*  
Mayor

EL PASO NATURAL GAS COMPANY,  
Lessee

*[Signature]*  
Assistant Secretary

By *[Signature]*  
Vice President

CITY CLERK DEPT.  
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IN MY OFFICE

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EL PASO  
COUNTY, TEXAS

*El Paso Natural Gas Co.*  
*City of El Paso*  
*Seal*

6/3/59

5/6

Exhibit "C"

Exhibit "A"  
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Document Identity:  
Tracer *N/W 48013, G-9A*

## SECOND AMENDMENT TO LEASE

STATE OF TEXAS  
COUNTY OF EL PASO

16958

WHEREAS, the CITY OF EL PASO, TEXAS and EL PASO NATURAL GAS COMPANY heretofore entered into a lease agreement, as amended by first amendment affixed thereto, said lease and amendment being dated June 3, 1959 and recorded at Volume 1541, page 85 of the Deed Records of El Paso County, Texas, covering four tracts of land situated in El Paso County, Texas, and being more particularly described in said lease and amendment, and

WHEREAS, the said parties desire to further amend said lease for the purpose of correcting the description of Tract IV thereof,

NOW, THEREFORE, said parties hereby amend said lease by substituting the following description for that given as Tract IV thereof:

A strip of land 60 feet in width, the westerly line of which begins at a point on the north section line of Section 256, Hugh G. Foster Survey, El Paso County, Texas, distant 536.8 feet East of the northwest corner of said Section 256; thence South 3° 24' West a distance of 256 feet; thence South 13° 24' West a distance of 1059.8 feet; thence South 21° 07' West a distance of 762.9 feet to a point on the west section line of said Section 256, distant 1997.9 feet South of the northwest corner of said Section 256.

Also beginning at a point on the west section line of said Section 256, distant 161.4 feet north of the southwest corner of said Section 256; thence South 20° 20' East a distance of 172.5 feet to a point on the south section line of said Section 256, distant 721.9 feet West of the northwest corner of Section 211, A. F. Miller Survey, El Paso County, Texas.

Except as hereby amended, all the terms and provisions of said lease and first amendment are hereby ratified and confirmed by the parties thereto.

EXECUTED this 5<sup>th</sup> day of October, 1960.

ATTEST:

THE CITY OF EL PASO

*[Signature]*  
City Clerk

*[Signature]*  
Mayor

ATTEST:

EL PASO NATURAL GAS COMPANY

*[Signature]*  
Assistant Secretary

By *[Signature]*  
Vice President

REG. NO. 34281

CITY CLERK DEPT.  
07 DEC 12 PM 4:45

Exhibit "C"

7/11

Exhibit "A"  
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236 236

- 2 -

STATE OF TEXAS  
COUNTY OF EL PASO

BEFORE ME, the undersigned authority, on this day personally appeared Raymond J. Tellez Jr., Mayor of THE CITY OF EL PASO, a municipal corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed and delivered the foregoing instrument for the purposes and considerations therein expressed, and as the act of said municipal corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 27th day of October, 1960.

My Commission expires: 6-1-61

R. J. Tellez Jr.  
Notary Public in and for El Paso County, State of Texas

STATE OF TEXAS  
COUNTY OF EL PASO

BEFORE ME, the undersigned authority, on this day personally appeared H. F. Siffert, Vice President of EL PASO NATURAL GAS COMPANY, a corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed and delivered the foregoing instrument for the purposes and considerations therein expressed, and as the act of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 1st day of November, 1960.

My Commission expires: Nov. 1, 1961  
Notary Public in and for El Paso County, Texas  
My Commission Expires June 1, 1961

M. B. Lucy  
Notary Public in and for El Paso County, State of Texas

R/W 40013, G-9A

CITY CLERK DEPT.  
07 DEC 12 PM 4:45

10/31

1960 NOV 23 PM 2:47  
*Notary Public*

11/30

Mail 10/28/60  
Can forward instrument to him  
City of El Paso  
El Paso Natural Gas Co.

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8 of 11

Exhibit "A"  
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62746

THIRD AMENDMENT TO LEASE

STATE OF TEXAS

COUNTY OF EL PASO

WHEREAS, the CITY OF EL PASO, TEXAS and EL PASO NATURAL GAS COMPANY heretofore entered into a lease agreement, as amended by first amendment affixed thereto, said lease and amendment being dated June 3, 1959 and recorded at Volume 1541, page 85 of the Deed Records of El Paso County, Texas, covering four tracts of land situated in El Paso County, Texas, and being more particularly described in said lease and amendment; and

WHEREAS, said parties further amended said lease correcting the description of Tract IV by instrument dated October 3, 1960 and recorded in Volume 1572 at page 235 of the Deed Records of El Paso County, Texas, and

WHEREAS, the said parties desire to further amend said lease for the purpose of further correcting the description of said Tract IV thereof,

NOW, THEREFORE, said parties hereby amend said lease by substituting the following description for that given as Tract IV thereof;

A strip of land 60 feet in width, out of Section 256, Hugh G. Foster Survey, El Paso County, Texas, the westerly line of said strip being more particularly described as follows:

Beginning at a point on the north section line of said Section 256, distant 543.68 feet East of the northwest corner of said Section 256; thence South 3°31'30" West, a distance of 266.39 feet; thence South 13°40'51" West, a distance of 1058.45 feet; thence South 21°04'49" West, a distance of 757.94 feet to a point of exit on the west section line of said Section 256, distant 2002.23 feet South of the northwest corner of Section 256.

Re-entering said Section 256 at a point on the west section line of said Section 256, distant 160.13 feet north of the southwest corner of said Section 256; thence South 20°18'23" East, a distance of 170.81 feet to a point on the south section line of said Section 256, distant 58.93 feet East of the southwest corner of said Section 256.

Except as hereby amended, all the terms and provisions of said lease, as amended, shall remain in full force and effect.

CITY CLERK DEPT.  
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Exhibit "A"

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807 1889

Exhibit "C"

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CITY CLERK DEPT.  
07 DEC 12 PM 4:45

EXECUTED this 28th day of July, 1977.

ATTEST:

THE CITY OF EL PASO

C. H. R. Regis  
City Clerk

Ray Salazar  
Mayor

EL PASO NATURAL GAS COMPANY

APPROVED FORM  
7/2/77  
PHILIP T. COLE  
ATTORNEY FOR PUBLIC SERVICE BOARD

By Wm. F. Howard  
Wm. F. Howard  
Attorney-in-Fact

STATE OF TEXAS  
COUNTY OF EL PASO

BEFORE ME, the undersigned authority, on this day personally appeared Ray Salazar, Mayor of THE CITY OF EL PASO, a municipal corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed and delivered the foregoing instrument for the purposes and considerations therein expressed and as the act of said municipal corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 28th day of July, 1977.

My Commission expires:

Billie Ann Beaman  
Notary Public in and for El Paso  
County, State of Texas

STATE OF TEXAS  
COUNTY OF EL PASO

BEFORE ME, the undersigned authority, on this day personally appeared Wm. F. Howard, known to me to be the person whose name is subscribed to the foregoing instrument as Attorney-in-Fact for El Paso Natural Gas Company, the party thereto; and acknowledged to me that he executed the same as Attorney-in-Fact for the said El Paso Natural Gas Company and that the said El Paso Natural Gas Company executed the same by and through him for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 7th day of July, 1977.

My Commission expires:

George J. Howard  
Notary Public in and for El Paso  
County, State of Texas

R/W 48013, G-9A

Exhibit "C"  
10/11

Exhibit "A"  
29 of 31  
807 1890

62746

FILED FOR RECORD  
IN MY OFFICE

77 JUL 29 PM 3:58

*Rebecca G. Page*

STATE OF TEXAS  
I hereby certify that this instrument was filed  
on the date and time stamped herein by me and  
was duly recorded in the volume and page of the  
Official Public Records of Real Property, El Paso  
County, Texas.



JUL 29 1977

*Olivia R. Chason*  
COUNTY CLERK, El Paso County, Texas

Return To *El Paso Public Records*  
*PO Box 147*  
*El Paso, TX 79918*  
El Paso, Texas

07 DEC 12 PM 4:45

CITY CLERK DEPT.

*Quest 20*

Exhibit "C"  
11/9/11

Exhibit "A"  
30 of 31  
807 1891

March 1, 2007

Arnold Peinado  
Wildwood Develops, LLC  
299 Shadow Mountain Drive  
El Paso, Texas 79912

RE: 0700086 Red Road/Resler Drive Road Crossing and Site Development.

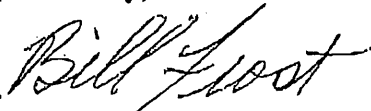
Mr. Peinado,

El Paso Natural Gas will allow a 30 foot wide road crossing, as was shown to me, off of Resler Drive under the following conditions:

1. A drawing that would detail the 30' wide road design and also show the present grade over our pipelines and the finished grade over our pipelines.
2. As explained to River Oak Properties the will be a charge of not more than \$6000.00 for the recoating of the pipelines and lowering our lines if needed.
3. We need a minimum of 2 weeks notice, preferably more, before construction of the road begins to recoat our pipes.

This letter is limited to only the road crossing. Any other development over our pipelines is not granted. If other development is desired over our pipelines and easement a separate request must be made.

Sincerely,



Bill Frost  
Land Agent WRC  
Representing El Paso Natural Gas

CITY CLERK DEPT.  
07 DEC 12 PM 4:45

Exhibit "D"  
1 of 1

Exhibit "A"  
31 of 31

March 13, 2009

Franklin Self Storage LLC  
299 Shadow Mountain Dr. Suite C  
El Paso, Texas 79912

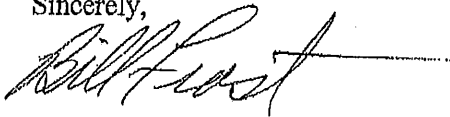
Re: 0700086 Redd Road/ Resler Drive Road Crossing and Site Development

Gentlemen,

El Paso Natural Gas will allow your company to cross our natural gas pipelines and easement within the roadway you lease from the City of El Paso with two conduits for electric service, a 6 inch water line and 2 domestic water lines.

El Paso Natural Gas will require that you place a one call prior to construction and that a representative of El Paso Natural Gas be present during the trenching for the lines. The conduits for electric service will have to be encased in 5 inches of concrete, the separation between the lines and the El Paso Natural Gas lines shall be a minimum of 2 feet, unless you are told otherwise by an El Paso Natural Gas representative.

Sincerely,



Bill Frost  
Principal Right of Way Negotiator  
El Paso Natural Gas

Exhibit "A-1"  
Page 1 of 2

June 2, 2009

Franklin Self Storage LLC  
299 Shadow Mountain Dr. Suite C  
El Paso, Texas 79912

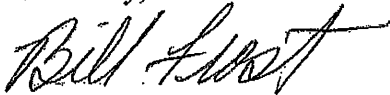
Re: 0700086 Redd Road/ Resler Drive Road Crossing and Site Development

Gentlemen,

El Paso Natural Gas will allow your company to cross our natural gas pipelines and easement within the roadway you lease from the City of El Paso with a buried telephone cable.

El Paso Natural Gas will require that you place a one call prior to construction and that a representative of El Paso Natural Gas be present during the trenching for the lines. The separation between the telephone cable and the El Paso Natural Gas lines shall be a minimum of 2 feet, unless you are told otherwise by an El Paso Natural Gas representative.

Sincerely,



Bill Frost  
Principal Right of Way Negotiator  
El Paso Natural Gas

Exhibit "A-1"  
Page 2 of 2